United Nations

Report of the Ad Hoc Committee on criminal accountability of United Nations officials and experts on mission

First session (9-13 April 2007)

General Assembly
Official Records
Sixty-second Session
Supplement No. 54 (A/62/54)

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Contents

Chapter		*Paragraphs*	*Page*
I.	Introduction	1–7	1
II.	Proceedings	8–12	2
III.	General comments made in plenary	13–18	3
IV.	Recommendation	19	5
Annex			
	Informal summary of the discussions of the Ad Hoc Committee on the report of the Group of Legal Experts, prepared by the Chairperson		6

I. Introduction

1. The first session of the Ad Hoc Committee on criminal accountability of United Nations officials and experts on mission was convened in accordance with paragraphs 1 and 2 of General Assembly resolution 61/29 of 4 December 2006. The Committee met at Headquarters from 9 to 13 April 2007.

2. In accordance with paragraph 1 of resolution 61/29, the Ad Hoc Committee was open to all States Members of the United Nations or members of specialized agencies or of the International Atomic Energy Agency.

3. On behalf of the Secretary-General, the session was opened by the Under-Secretary-General for Legal Affairs, and United Nations Legal Counsel, Nicolas Michel.

4. At its 1st meeting, on 9 April 2007, the Committee elected its Bureau, as follows:

Chairperson:
Maria Telalian (Greece)

Vice-Chairpersons:
El Hadj Lamine (Algeria)
Ruddy Flores Monterrey (Bolivia)
Ganeson Sivagurunathan (Malaysia)

Rapporteur:
Martin Roger (Estonia)

5. The Director of the Codification Division of the Office of Legal Affairs, Mahnoush H. Arsanjani, acted as Secretary of the Ad Hoc Committee. The Codification Division provided the substantive services for the Ad Hoc Committee.

6. At the same meeting, the Ad Hoc Committee adopted the following agenda (A/AC.273/L.1):

1. Opening of the session.
2. Election of officers.
3. Adoption of the agenda.
4. Organization of work.
5. Consideration of the report of the Group of Legal Experts established by the Secretary-General pursuant to resolution 59/300, in particular its legal aspects, as mandated by the General Assembly in paragraph 1 of its resolution 61/29 of 4 December 2006.
6. Adoption of the report.

7. The Ad Hoc Committee had before it the report of the Group of Legal Experts on ensuring the accountability of United Nations staff and experts on mission with respect to criminal acts committed in peacekeeping operations.[1] Other documents were available for reference purposes.

[1] A/60/980.

II. Proceedings

8. The Ad Hoc Committee held two plenary meetings, on 9 and 13 April 2007.

9. At the 1st meeting, the Ad Hoc Committee adopted its work programme and decided to proceed with its discussions in the context of a working group of the whole. The Ad Hoc Committee also decided to invite Lionel Yee, one of the legal experts involved in the preparation of the report of the Group of Legal Experts, to participate in its work for the session. At the same meeting, the Ad Hoc Committee held a general exchange of views, during which delegations made statements. A summary of the debate appears in section III below.

10. The working group held five meetings, from 9 to 11 April 2007. It organized its work by addressing the various issues considered in the report of the Group of Legal Experts around the following clusters: (a) the scope *ratione personae*; (b) the crimes; (c) the bases for jurisdiction; (d) investigations; (e) cooperation among States and cooperation between States and the United Nations; and (f) the form of instrument. Discussion of these matters was preceded by a briefing, followed by a question-and-answer segment, involving the legal expert and representatives of the Secretariat from the Department of Peacekeeping Operations, the Office of Internal Oversight Services and the Office of Legal Affairs.

11. An informal summary of the briefing and subsequent discussions in the working group is annexed to the present report. The summary was prepared by the Chairperson for reference purposes only and not as a record of the discussions.

12. At the 2nd meeting, the Ad Hoc Committee adopted the report on its first session.

III. General comments made in plenary

13. During the general exchange of views, delegations affirmed the importance that they attached to the work of the Ad Hoc Committee and expressed appreciation for the report of the Group of Legal Experts, which addressed a subject of importance for the United Nations. There was general recognition in the Ad Hoc Committee of the important contribution and sacrifices made by United Nations peacekeepers over the years. It was considered important for all peacekeeping personnel to perform their duties in a manner consistent with the Charter of the United Nations and with the need to preserve the image, credibility, impartiality and integrity of the Organization. It was also noted that, in considering the subject addressed by the report of the Group of Legal Experts, the interests of the victims and the negative perception in concerned communities needed to be taken into account.

14. Delegations reiterated their support for and the necessity of maintaining a zero tolerance policy in addressing all cases of sexual exploitation and abuse committed by peacekeeping personnel, so as to prevent impunity. It was observed that, to the extent that a vacuum existed with regard to the criminal accountability of individuals employed by the United Nations, that vacuum had to be considered and any potential impunity addressed. The main issue was to determine the best way to do so, in accordance with the principles of due process, human rights and the rule of law, and in conformity with the Charter of the United Nations.

15. While some delegations sought more information regarding the existing gaps, the view was expressed that a jurisdiction gap did, in fact, exist in situations where the host State was not in a position to respond to an alleged crime or was unable to bring an accused individual to justice once he or she had departed the mission area. In many cases, the State of nationality of the accused would not have jurisdiction or an adequate legal basis to proceed with a prosecution or render mutual legal assistance or extradition. At the same time, it was noted that the entire range of problems did not always arise in a legal vacuum, and that due account had to be taken of existing laws (both at the domestic and international levels) and applicable procedures. Accordingly, caution was advised against unnecessarily duplicating existing mechanisms for dealing with such cases or proceeding quickly without grasping the full nature of the problems.

16. Delegations identified and highlighted several issues requiring further clarification, including the scope of application of both *ratione personae* and *ratione materiae*, jurisdictional questions, issues of terminology, questions of immunities and their lifting, the mechanism to ensure the prosecution of alleged offenders and the necessity of ensuring international cooperation, including extradition. The consideration of those issues is reflected in the summary of discussions contained in the annex to the present report.

17. Regarding the necessity of negotiating an international convention on the criminal accountability of United Nations officials and experts on mission, some delegations held the view that a new treaty could help to close the legal gap in jurisdiction, and that the text proposed in annex III to the report of the Group of Legal Experts could serve as an adequate basis for the elaboration of such a treaty, even if the content of any new treaty would require considerable further negotiation. On the other hand, it was noted that it was premature to discuss such a possibility. It

was proposed that the Ad Hoc Committee focus on substantive matters, leaving questions of form to a subsequent stage. The view was also expressed that it was important first to consider the existing barriers to ensuring accountability so as to better assess whether an international convention was the most appropriate means for addressing the problems, especially since the proposal entailed a significant effort to address what was a small subset of the larger issue concerning sexual exploitation and abuse. It was asked whether, given the number of cases, it would be worthwhile to expend the resources that would be involved in the elaboration of a convention. Other approaches, such as adopting a General Assembly resolution calling on States to take stronger domestic action, adopting model legislation or intensified efforts by the Secretariat to identify those States failing to take appropriate action, could also be considered. Reference was made to the importance of raising awareness through, for example, predeployment training.

18. Procedurally, some delegations, pointing out that some of the issues covered by the report of the Group of Legal Experts also touched upon the work of other United Nations bodies, and wishing to avoid duplication, called for close cooperation and coordination between the Fourth and Sixth Committees, as well as with the Special Committee on Peacekeeping Operations.

IV. Recommendation

19. At the 2nd meeting, on 13 April 2007, the Ad Hoc Committee decided to recommend that the Sixth Committee, at the sixty-second session of the Assembly, establish a working group with a view to continuing the consideration of the report of the Group of Legal Experts established by the Secretary-General pursuant to resolution 59/300, focusing on its legal aspects, taking into account the views expressed in the Ad Hoc Committee.

Annex

Informal summary of the discussions of the Ad Hoc Committee on the report of the Group of Legal Experts, prepared by the Chairperson

A. Briefing and question-and-answer segment

1. Following briefings by the legal expert and representatives of the Office of Legal Affairs, the Department of Peacekeeping Operations and the Office of Internal Oversight Services at the meeting of the working group on 9 April 2007, delegations had an opportunity to ask questions on 9, 10 and 11 April 2007.

2. The legal expert recalled that the subject matter had come to prominence following incidents of sexual exploitation and abuse that had occurred in peacekeeping operations and the wish by the international community to respond to the situation. The legal gap that was sought to be addressed, which was likely to give rise to impunity if the host State was not in a position to exercise its jurisdiction, consisted in the fact that States did not assert extraterritorial jurisdiction for ordinary crimes, as well as perceived problems regarding waiver of immunity in respect of a staff member alleged to have committed a crime, particularly in situations where a host country might not offer sufficient guarantees of due process and respect for recognized human rights standards.

3. The report of the Group of Legal Experts contemplated a scheme that would accord preference, where possible, to the host State to assert jurisdiction on the basis of the principle of territoriality, also taking into account the availability of evidence and witnesses, as well as the need to achieve a greater sense of justice for local communities. The draft convention did not intend to modify the criteria currently applied in order to assess the ability of the host State to exercise its jurisdiction. However, should the host State be unable to exercise jurisdiction, there would be a need to have recourse to the jurisdiction of other States. Accordingly, while also addressing some other matters such as cooperation in investigation, extradition and mutual assistance, the draft convention submitted was intended mainly to provide the basis for extending extraterritorial criminal jurisdiction for States. However, it would not require a State party to amend its definition of crimes as set forth in its national legislation. The draft convention would have to be viewed as being complementary to other measures recommended by the Group of Legal Experts. The draft convention was preliminary in character. Several provisions were drawn from existing legal instruments.

4. Regarding the scope *ratione personae*, it was envisaged that it would cover peacekeeping personnel who were United Nations officials or experts on mission. That would cover military observers and civilian police who, in accordance with paragraph 26 of the model status-of-forces agreement (A/45/594) and other such agreements, were considered to be experts on mission within the meaning of the Convention on the Privileges and Immunities of the United Nations of 1946 and their immunity subject to waiver by the Secretary-General. The existing regime on immunity would not be affected by the draft convention. The draft convention could also cover United Nations officials or experts on mission who, although not members of a peacekeeping operation, were present in an official capacity in the

mission area. However, the draft convention would not extend to the military personnel of national contingents; they were subject to the exclusive jurisdiction of the sending State.

5. Concerning the scope *ratione materiae*, it was contemplated that the draft convention would cover serious offences against the person, including serious sexual offences. While offences concerning sexual exploitation and abuse had been the main focus of the work of the Group of Legal Experts, it was decided to include murder and other serious offences against the person among the crimes covered by the draft convention; however, other crimes might be suitable for inclusion as well. The reference to "serious crimes" in the draft convention was based on a pragmatic approach. Two alternatives were proposed: (a) extending extraterritorial jurisdiction over certain crimes that were recognized as such in the national law of the State establishing its jurisdiction; and (b) establishing extraterritorial jurisdiction over certain crimes that attracted a penalty reaching a specified level of severity. To provide further clarity, the Secretary-General would be informed of the measures taken by each State party in order to establish jurisdiction in accordance with the draft convention. The draft would provide for mandatory and discretionary bases for jurisdiction.

6. Although the question of punishment had not been specifically discussed within the Group of Legal Experts, the concerns that might arise in respect of the handing over of an alleged offender to a State whose legislation allowed for the death penalty should be addressed in the same manner as in other conventions from which the text was drawn. Similarly, since the draft convention was conceived mainly as an instrument between States without the United Nations being a party, it did not address issues concerning compensation for victims by the United Nations. Moreover, the draft convention had not addressed practical problems arising from competing jurisdictions and how, in particular, competing requests might be dealt with; those matters would be addressed in the same manner as in other conventions which also provided for the establishment of jurisdiction by more than one State.

7. Regarding the nature and scope of the problem, the representative of the Department of Peacekeeping Operations observed that in 2004 and 2005, a total of 445 allegations had been received, of which 322 had been investigated (excluding ongoing investigations). In those two years, an average of 90 allegations had been determined to be substantiated, while an average of 53 were unsubstantiated. In 2006, 357 allegations had been received and 66 investigated. Among those, 10 had been found to be substantiated and 56 unsubstantiated. In 2007, 7, 14 and 22 allegations had been received for January, February and March, respectively.[a]

8. It was acknowledged that difficulties existed in the collection of the data and their reliability. For example, data had become readily available only after a complaint procedure had been established in 2005. Moreover, there were disparities between the number of allegations and the completed investigations, since it took a long time to complete them owing to the high rates of rotation among personnel, whose initial contracts were often co-extensive with the mandate of the mission, as well as within the investigation teams of the Office of Internal Oversight Services. Investigators from the Office were present in some missions, but not all. In some

[a] For an indication of the number of completed investigations for the period 1 July 2005 to 30 December 2006, see the report of the Office of Internal Oversight Services, part one (A/61/264 and Add.1-2).

instances, the security investigation teams of the Department of Peacekeeping Operations assisted in conducting a preliminary gathering of information. The constraints, however, did not obscure the gravity of the problem. The perception of the existence of complaints, even if they were few, affected the credibility of the Organization.

9. Complainants had access to the conduct and discipline unit, and medical assistance was provided. It was noted that a victims assistance policy was being considered by the Special Committee on Peacekeeping Operations and that standard operating procedures were being developed.

10. The representative of the Office of Internal Oversight Services noted that the mandate of the Office was provided for by General Assembly resolution 48/218 B.[b] The procedure and disciplinary measures in situations where misconduct against a staff member was alleged were further elaborated by document ST/AI/371 of 2 August 1991. The Office conducted an investigation for purposes of administrative breaches in support of disciplinary processes and not criminal investigations as such.[c] However, in situations where administrative misconduct revealed the possibility that criminal misconduct had been committed, the Office continued to facilitate investigations in order to support the commencement or conduct of criminal proceedings, as well as to secure the integrity of the evidence. Typically, complaints were received from programme managers, the Conduct and Discipline Team of the Department of Peacekeeping Operations and the local communities in the host country. Allegations were investigated as soon as complaints were received. An allegation was interpreted broadly and involved an investigation of any kind of report or complaint that was received. Where criminal conduct was suspected, the foreign ministry of the State of nationality of the alleged offender and United Nations Headquarters were informed. Once the local authority took charge of an investigation, the participation of the Office of Internal Oversight Services was limited. It was further noted that once a case had been referred to the host or national State, there were no procedures, nor requirement, for informing the United Nations of the outcome of that case. That made it difficult to gain an appreciation of the extent to which national criminal investigations, including prosecutions, were actually undertaken.

11. While the Office of Internal Oversight Services assisted in safeguarding the integrity of documentary evidence and ensured the protection of victims, including the anonymity of complainants, there were a number of issues that required improvement and further elaboration. Those included the extent to which the integrity of the evidence, particularly the testimony of witnesses, could be safeguarded in order to satisfy the evidentiary and admissibility requirements of domestic jurisdiction without commencing an investigation de novo. It was also necessary to consider ways of enhancing cooperation with Member States, including in information exchange and collaboration in investigations.

12. The representative of the Office of Legal Affairs noted that the legal basis for the waiver of privileges and immunities was the Convention on the Privileges and

[b] See also the Secretary-General's bulletin of 7 September 1994 on the establishment of the Office of Internal Oversight Services (ST/SGB/273).

[c] For the distinction between the recognized categories of cases, see the report of the Office of Internal Oversight Services on strengthening the investigation functions in the United Nations (A/58/708), paragraphs 26 and 27.

Immunities of the United Nations. The Secretary-General had authority to waive immunity, and that had been delegated to the Legal Counsel. The waiver of the immunity of the Secretary-General was the prerogative of the Security Council. The relationship between the host State and the United Nations in regard to the legal regime for a peacekeeping operation, including questions of privileges and immunities in the host State, was set out more elaborately in relevant status-of-forces agreements, as exemplified by the 1990 model status-of-forces agreement, as well as in more recently concluded status-of-forces agreements. In accordance with such arrangements, members of peacekeeping operations had a duty to refrain from action or activity incompatible with the impartial and international nature of their duties or inconsistent with the spirit of such arrangements. They were also under an obligation to respect all local laws and regulations, and the Special Representative of the Secretary-General or the Force Commander was obligated to take all appropriate measures to ensure the observance of obligations.

13. The distinction between military observers and members of national military contingents was a well-established principle of peacekeeping. The legal status of the different categories of peacekeeping personnel enjoying privileges and immunities, including military observers, was clearly defined in the status-of-forces agreement and in the 1946 Convention.

14. Subject to the diplomatic immunities of high-ranking members of the peacekeeping mission, the host State was entitled to take into custody a member of a peacekeeping operation if such a member was apprehended in the commission of a criminal offence. However, the host State was under an obligation to immediately deliver the individual, together with any evidence seized, to the nearest appropriate representative of the peacekeeping operation. If the accused was a civilian, the Special Representative would conduct any necessary supplementary inquiry and then reach agreement with the Government whether or not a criminal proceeding should be instituted in accordance with due process and with the duty of cooperation provided in the respective status-of-forces agreement, in particular with respect to investigations, the production of witnesses and the collection of evidence. The host State and the peacekeeping mission had a duty to notify each other of any case in the outcome of which the other party might have an interest or in which there had been a transfer of custody. Following such notification, the host State might present to the United Nations a request for the waiver of immunity.

15. The privileges and immunities of a member of a peacekeeping operation in respect of official acts continued to apply after the termination of his or her functions. The privileges and immunities of the mission and those of its members were often interlinked, in particular regarding the access to the mission's premises and the seizure of its belongings. Certain practical problems had arisen in peacekeeping operations, such as freedom of movement within the territory of the country and visa issues.

16. If the host State believed that a member of a peacekeeping operation had committed a crime, it had a duty to inform the Special Representative of the Secretary-General. If the Special Representative held the view that criminal proceedings should be instituted, he or she would refer the case to Headquarters, and the issue would then be considered in conjunction with the Department of Peacekeeping Operations, the Office of Legal Affairs and other relevant offices. Usually, the United Nations elected to cooperate voluntarily in matters concerning a

criminal investigation. Waiver became relevant where the exercise of criminal jurisdiction was invoked. Once a decision was made on waiver, it was communicated through the diplomatic channels.

B. Discussion of the report of the Group of Legal Experts

17. Some delegations expressed doubts as to whether a real case had been made for the elaboration of a convention, considering that the exact nature of the obstacles was not yet clear, and whether indeed such obstacles, to the extent they existed, could best be remedied through the negotiation of an international convention. In that connection, the importance of having additional statistical data to help throw light on the problem was emphasized. To fill such an information gap, attention was drawn to the working paper on the accountability of international personnel taking part in peace support operations (E/CN.4/Sub.2/2005/42). On the other hand, it was observed by other delegations that a statistical analysis of the problem was of only limited use in determining the extent of the problem owing to the difficulties in obtaining reliable information. In addition, there were other reasons, such as bolstering the image of the Organization and the protection of victims, for embarking on the negotiation of an appropriate legal mechanism. It was suggested that consideration also be given to what other actions and practical measures, apart from negotiating a treaty, could be undertaken to address the types of problems identified in the report of the Group of Experts.

1. Scope *ratione personae*

18. As regards the scope *ratione personae*, some delegations observed that military personnel, regardless of whether they were employed by the United Nations as experts on mission, should remain, in principle, solely under the national jurisdiction of the contributing State, since their activities were typically governed by specific sets of rules under the respective national laws. Accordingly, it was proposed that such categories of individuals be excluded from the scope of application of any future instrument. A similar view was expressed with respect to civilian police units.

19. In the view of some delegations, the viability of limiting the scope of application to United Nations personnel and experts on mission participating in a United Nations peacekeeping operation needed to be reviewed. It was recalled that the Group of Legal Experts had itself noted the possibility of a broader scope of application to cover officials and experts on mission, albeit those present in an official capacity in the area of a United Nations peacekeeping operation. In that connection, it was suggested that consideration be given to the possible expansion of scope to include other operations and other categories of persons, such as personnel participating in other United Nations operations in the field, as well as staff of the specialized agencies. Attention was drawn to the scope of application of the 1994 Convention on the Safety of United Nations and Associated Personnel and its 2005 Optional Protocol as a possible model.

20. However, other delegations expressed the view that while any suggested expansion of the scope of application would not raise questions of principle, it was premature to consider in detail any aspects concerning the draft convention. It was observed that such expansion should only be undertaken following an in-depth

analysis of the legal framework governing those categories of individuals and on the basis of an appreciation of the extent to which the obstacles identified by the Group of Experts in the context of peacekeeping operations also applied to those categories of individuals. Moreover, some consideration had to be given to whether such an exercise would fall within the mandate of the Ad Hoc Committee *stricto sensu*. It was also considered that it would be useful procedurally, in the light of the origins of the subject, to bear in mind the role of the Special Committee on Peacekeeping Operations. On the other hand, it was noted that if the Ad Hoc Committee were to agree on the advisability of any extension of scope of application, appropriate recommendations would be made through the Sixth Committee.

21. Doubts were also expressed regarding the rationale for excluding operations authorized by the Security Council acting under Chapter VII of the Charter of the United Nations, as was done in the Convention on the Safety of United Nations and Associated Personnel. The inclusion of such a provision in the current context was considered problematic and in need of review.

2. Crimes (scope *ratione materiae*)

22. Concerning the applicable crimes, some delegations expressed the view that the putative treaty should not be limited to crimes involving sexual exploitation but should also apply to other crimes, such as theft, fraud, money-laundering and torture. While it was open to the Ad Hoc Committee to propose the expansion of the scope of application *ratione materiae* to a broader range of crimes, it was observed that a distinction could notionally be drawn between crimes committed against the general populace and those committed against the Organization itself. It was the former that had attracted the most attention and which were the subject of consideration by the Group of Legal Experts. It was also noted that any proposal for the expansion of the scope *ratione materiae* would be linked to the eventual scope *ratione personae* and the provisions on dual criminality and extradition.

23. Some delegations spoke in favour of a more general provision focusing on the threshold of applicable punishment, as opposed to a listing of specific crimes (which would potentially necessitate amendment in the future and which could be unduly restrictive). Others pointed out that the general approach might not be suitable for satisfying the double criminality requirement for extradition but would be more appropriate for an instrument aimed at international cooperation. It was suggested that the reference to "serious crimes" needed further consideration in the light of the *a contrario* implication it might have for crimes not listed in the provision as well as the principle of legality.

24. Reference was made to some of the potential difficulties that could arise out of the disparity in the criminal laws and procedures of different States, for example, in terms of definitions of crimes and of applicable punishments, and even the criminalization of some conduct such as prostitution. In response, it was pointed out that it was exactly because the Group of Legal Experts was aware of such complexities that it had proposed a pragmatic approach which focused less on attempting to harmonize national laws and more on identifying a matrix of crimes common to most jurisdictions, even if by approximation, the overarching goal being to avoid impunity.

3. Bases for jurisdiction

25. Some delegations reiterated the primacy of the jurisdiction of the host State and pointed to the need to provide it with the necessary assistance to effectively enforce its laws. The point was made that objective criteria, including time frames, should be developed in order to assess the capability of the host State to exercise its jurisdiction over an alleged offender. A preference was also expressed by some other delegations for the State of nationality to exercise jurisdiction over the alleged offender, together with a robust extradition regime to deal with cases where the individual was not present in the State of nationality. The view was also expressed that the wide variation in the circumstances of peacekeeping missions militated against a "one size fits all" solution. Other delegations sought further clarification of the possible bases for jurisdiction. It was pointed out that it was necessary to draw a distinction between universal jurisdiction and the extradite or prosecute regime, with some delegations expressing doubt as to whether such a quasi-universal jurisdiction was even necessary in the context of any future convention on the current subject. It was considered that encouraging the State of nationality to enact legislation allowing the exercise of extraterritorial jurisdiction might be the best way of avoiding impunity, including in situations in which the host State was not in a position to exercise jurisdiction.

26. The point was also made that some criteria needed to be established in order to address the problem of possible competing jurisdictions. Some delegations stressed the importance of cooperation in that regard.

4. Investigations

27. Focusing on the recommendations in paragraph 84 of the report of the Group of Experts, some delegations observed that the role of the various actors in the investigatory process would have to be carefully considered. For example, regarding the role played by the Office of Internal Oversight Services, it was recalled that the Office did not have a mandate to undertake criminal investigations. Any investigation which the Office might have undertaken up to that point was essentially administrative in nature (owing to its mandate). Accordingly, that could affect the feasibility of subsequent criminal prosecutions on the basis of the evidence gathered by the Office of Internal Oversight Services. It was recalled that the Office did not take any sworn statements, nor were individuals who were the subject of an allegation afforded the right to review statements made by complainants. Furthermore, for reasons of confidentiality, statements did not typically include the identity of the complainant. Those and other aspects served to minimize the evidentiary value of such statements. Several delegations confirmed that under their respective national legal systems, evidence obtained through an administrative process could not serve as a basis to sustain criminal investigations.

28. Some delegations stressed the primary role of the domestic jurisdiction in the conduct of criminal investigations. At the same time, it was observed that notwithstanding the shortcomings in the nature and procedures of investigations undertaken by the Office of Internal Oversight Services, in certain contexts where the respective national capacity to investigate crimes was limited or non-existent, investigations by the Organization served as the only practical basis upon which to undertake subsequent criminal prosecutions. Accordingly, emphasis was placed on the need to strengthen the capacity of the Organization to conduct investigations and

to collect evidence in a manner that would enhance the likelihood of its subsequent admissibility in national criminal proceedings as well as to preserve its integrity. While it was noted that the procedures of the Office of Internal Oversight Services were under review and that some of the practical measures to be put into place were being considered by other bodies, the view was expressed that an international legal instrument might usefully seek to address the shortcomings in the current system concerning the collection, sharing and preservation of evidence as well as its admissibility in criminal proceedings.

29. Further reference was made to the possibility of resorting to existing international mechanisms for legal cooperation in the field of criminal law.

5. Cooperation

30. The view was expressed that cooperation among States, as well as between States and the United Nations, would play an essential role in ensuring the effectiveness of the regime envisaged in the draft convention, in particular with respect to the collection of evidence, extradition matters and the serving of the sentence. The importance of preserving the mechanisms of cooperation that were provided in existing legal regimes was also emphasized. Regarding cooperation with the United Nations, support was expressed for enhancing the provision of assistance to States by the Organization, in particular by means of training and different forms of technical assistance, with a view to strengthening the rule of law in the national judicial systems. Furthermore, the importance of ensuring proper cooperation between different departments or units of the United Nations, in particular with respect to investigations in process, was stressed.

6. Form of instrument

31. The discussion on the possible form of instrument to be elaborated was considered to be premature and was deferred for consideration at a later stage.

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